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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/499,550	02/07/2000	Allen Cameron	AC2321	1424

7590 08/10/2004

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EXAMINER

VARNER, STEVE M

ART UNIT PAPER NUMBER

3635

DATE MAILED: 08/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/499,550

Applicant(s)

CAMERON, ALLEN

Examiner

Steve M Varner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 11-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Pursuant to the holding of abandonment withdrawn in Paper No. 7, Decision on Petition to Withdraw the Holding of Abandonment, the amendment filed 3/22/01 has been entered, this action is in response to the 3/22/01 amendment and the paper filed 5/21/03.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-6, 8, 10-12, are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3-6, 8, 11, 14, 15, of U.S. Patent No. 5570542. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following:

Regarding claim 1, Cameron '542 claims 1, 14, 15, teach a window insert formed from a sheet of optically transmissive material, said window insert having an upper edge defined to be inserted, said window insert having one or more fasteners. It is inherent that there are fastening receivers since there are fasteners. Cameron '542 claims 1, 14,

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15, teach a mounting bracket with a lower edge, the mounting bracket having a flat surface with one or more fasteners. The H-shaped element or guide element is the mounting bracket or retaining sheet, which has fasteners.

Regarding claim 2, Cameron '542 claims 3, teach the window insert formed from a material selected from the group consisting of optically transmissive polycarbonates, acrylics, and plastics.

Regarding claim 3, Cameron '542 claims 5, teach the window insert formed from a bullet proof material.

Regarding claims 4, Cameron '542 claims 11, 3, 5, teach bullet proof material selected from the group consisting of glass composite and glass/plastic composite and all plastic.

Regarding claim 5, Cameron '542 claims 1, 14, teach the window insert has the bottom edge notched.

Regarding claim 6, Cameron '542 claims 1, 14, 15, do not teach opaque polycarbonates, acrylics, and plastics. It would have been an obvious design choice to choose opaque material to give privacy to the occupants, which would enhance safety.

Regarding claim 8, Cameron '542 claims 1, 4, 8, 6, 15, teach a window insert formed from a sheet of optically transmissive material, said window insert having a upper edge. It is inherent that there is a lower edge to the window insert. Cameron '542 claims 1, 4, 8, 6, 15, teach said window insert having at least one orifice covering less than fifty percent of the surface and of said window insert said at least one orifice formed on an axis at either a perpendicular or a non-perpendicular angle to the plane of

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the window insert, said window insert having one or more fasteners and a mounting bracket with an upper edge said mounting bracket having one or more fasteners. The H-shaped element or guide element is the mounting bracket or retaining sheet, which has fasteners. It is inherent that there are fastening receivers since there are fasteners.

Regarding claim 10, Cameron '542 claim 3 teaches the window insert is formed from a material selected from a group consisting of optically transmissive polycarbonates, acrylics, and plastics.

Regarding claim 11, Cameron '542 claim 5 teaches the window insert is formed from bulletproof material.

Regarding claim 12, Cameron '542 claims 11, 3, 5, teach the bulletproof material is selected from the group consisting of glass composite and glass/plastic composite and all plastic.

Claims 7, 9, are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4, 6, 8, 14, 15, of U.S. Patent No. 5570542 in view of Carson et al.

Regarding claims 7, 9, Cameron '542 claims 1, 4, 6, 8, 14, 15, claim the basic claimed structure. Cameron '542 claims 1, 4, 6, 8, 14, 15, do not claim the upper edge of the window insert is retained by a bracket. Carson et al. shows the upper edge of the window insert (65) is retained by a bracket (70b) (Fig. 10). It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use a bracket as in Carson et al. in the structure of Cameron '542 to hold on the window insert.

Response to Arguments

As noted in the Examination Rebuttal of 3/22/01:

Examiner understands that Cameron '542 does not allow the window to be rolled up.

Examiner understands that the instant invention answers this problem by sharing the upper window channel with the motor vehicle window.

Examiner understands that Carson's brackets alter the original condition of the motor vehicle and that the instant invention solves these problems by using a single bracket that does not require modification to the original condition of the vehicle.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve M Varner whose telephone number is 703 308-1894. The examiner can normally be reached on M-F 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D Friedman can be reached on 703 308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SV



Carl D. Friedman
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Group 3600